

Senate Bill No. 757

CHAPTER 614

An act to add Article 10.5.1 (commencing with Section 25215.6) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to lead.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 757, Pavley. Lead wheel weights.

Under existing law, the Department of Toxic Substances Control is responsible for administering various programs to control the release of toxic substances into the soil and groundwater. Existing law requires, on or before January 1, 2011, the department to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered as being a chemical of concern, as prescribed, and to establish a process for evaluating chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by a chemical of concern. Existing law also establishes the Hazardous Waste Control Account to be used as specified by the department, upon appropriation by the Legislature.

This bill would prohibit the manufacture, sale, or installation in California of a wheel weight that contains more than 0.1% lead. The bill would provide for injunctive relief, as well as civil and administrative penalties for violation of that provision, as specified. The bill requires all civil and administrative fines collected to be deposited in the Hazardous Waste Control Account for expenditure by the department, upon appropriation by the Legislature, to implement and enforce the act.

This bill would also specify that if the department identifies an alternative to lead contained in wheel weights as a chemical of concern, then the lead alternative would remain subject to the evaluation process, as prescribed, to determine how best to limit exposure or to reduce the level of hazard posed by the lead alternative.

The people of the State of California do enact as follows:

SECTION 1. Article 10.5.1 (commencing with Section 25215.6) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 10.5.1. Lead Wheel Weights

25215.6. (a) No person shall manufacture, sell, or install a wheel weight in California that contains more than 0.1 percent lead by weight.

(b) If the department identifies an alternative to lead contained in wheel weights as a chemical of concern pursuant to Section 25252, then the lead alternative shall remain subject to the evaluation process imposed pursuant to Section 25253 to determine how best to limit exposure or to reduce the level of hazard posed by the lead alternative.

(c) Nothing in this section shall be construed to restrict the authority of the department pursuant to Sections 25252 and 25253 relating to a chemical or chemical ingredient contained in wheel weights, including, but not limited to, an alternative to lead.

25215.7. (a) Any person who violates or threatens to violate the provisions of this article may be enjoined in any court of competent jurisdiction.

(b) Notwithstanding any other law, a person who violates this article shall not be subject to criminal penalties and shall only be subject to the administrative or civil penalties specified in subdivision (c).

(c) (1) A person who violates this article shall be liable for an administrative or a civil penalty not to exceed two thousand five hundred dollars (\$2,500) per day for each violation. That administrative or civil penalty may be assessed and recovered in an administrative action filed with the Office of Administrative Hearings or in a civil action brought in any court of competent jurisdiction.

(2) In assessing the amount of an administrative or a civil penalty for a violation of this article, the presiding officer or the court shall consider all of the following:

(A) The nature and extent of the violation.

(B) The number and severity of the violations.

(C) The economic effect of the penalty on the violator.

(D) Whether the violator took good faith measures to comply with this article and the time these measures were taken.

(E) The willfulness of the violator's misconduct.

(F) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole.

(G) Any other factor that justice may require.

(d) Administrative and civil penalties collected pursuant to this article shall be deposited in the Hazardous Waste Control Account, for expenditure by the Department of Toxic Substances Control, upon appropriation by the Legislature, to implement and enforce this article.